



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

Commission for Public Health

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK T. BENTON • Assistant Secretary for Public Health

Division of Public Health

MEMORANDUM

DATE: September 17, 2019

TO: Interested Parties

FROM: Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health and
Director of Regulatory and Legal Affairs, Division of Public Health

RE: Notification of Proposed Temporary Rule Actions: 15A NCAC 18A .2508 and .2543

G.S. § 150B-21.1 requires a rulemaking body to notify certain individuals of its intent to adopt temporary rules and the date, time, and location of the public hearing on the rules.

The Commission for Public Health (CPH) has submitted Form OAH 0700 to the Codifier of Rules, Office of Administrative Hearings, indicating its intent to amend the following rules under temporary procedures: 15A NCAC 18A.2508 and .2543. The proposed rules are being amended in compliance with [SL 2019-88](#), which directs CPH to adopt rules governing the construction and operation of artificial swimming lagoons by December 1, 2019.

The public hearing on these rules is scheduled for Friday, October 11, 2019 at 11:00 am in the Cardinal Conference Room, Building 3, 5605 Six Forks Road, Raleigh, NC 27609.

CPH is accepting public comments on these rules from September 17, 2019 – October 17, 2019. You may submit comments by email to cphcomment@lists.ncmail.net or by mail to Virginia Niehaus, Rulemaking Coordinator, Commission for Public Health, 1931 Mail Service Center, Raleigh, NC 27699-1931. Comments will also be accepted at the public hearing. The proposed temporary rules are attached to this memorandum and available at <https://cph.publichealth.nc.gov/>.

If you have questions related to this memorandum or the proposed rules, please contact Alice Isley, Program Manager in the Division of Public Health, Environmental Health Section at (252) 495-3612.

cc: Dr. Ronald May, Chair, Commission for Public Health
Mark Benton, Assistant Secretary, Division of Public Health
Larry Michael, Environmental Health Section Chief, Division of Public Health
Shane Smith, Branch Head, Environmental Health Section, Division of Public Health
Alice Isley, Program Manager, Environmental Health Section, Division of Public Health
Kirsten Leloudis, Program Manager, Regulatory and Legal Affairs, Division of Public Health

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

1 15A NCAC 18A .2508 is proposed for amendment under temporary procedures as follows:

2
3 **15A NCAC 18A .2508 DEFINITIONS**

4 The following definitions apply throughout this Section:

5 (1) "Department" means North Carolina Department of Health and Human Services.

6 ~~(+)(2)~~ "Equipment replacement" means replacement of individual components of the hydraulic and
7 disinfection systems such as pumps, filters, and automatic chemical feeders.

8 ~~(2)(3)~~ "Public swimming pool" means public swimming pool as defined in G.S. 130A-280. Public
9 swimming pools are divided into five types:

10 (a) "Swimming pools" are public swimming pools used primarily for swimming.

11 (b) "Spas" are public swimming pools designed for recreational and therapeutic use that are
12 not drained, cleaned, or refilled after each individual use. Spas may include units designed
13 for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any
14 combination thereof. Common terminology for spas includes "therapeutic pool,"
15 "hydrotherapy pool," "whirlpool," "hot spa," and "hot tub."

16 (c) "Wading pools" are public swimming pools designed for use by children, including wading
17 pools for toddlers and children's activity pools designed for casual water play ranging from
18 splashing activity to the use of interactive water features placed in the pool.

19 (d) "Specialized water recreation attractions" are pools designed for special purposes that
20 differentiate them from swimming pools, wading pools and spas. They include:

21 (i) water slide plunge pools and run out lanes, which transfer the kinetic energy of
22 the users' velocity through friction to the slide;

23 (ii) wave pools;

24 (iii) rapid rides;

25 (iv) lazy rivers;

26 (v) interactive play attractions that incorporate devices using sprayed, jetted, or other
27 water sources contacting the users and that do not incorporate standing or captured
28 water as part of the user activity ~~area; and area;~~

29 (vi) training pools deeper than a 24 inch deep wading pool and shallower than a 36
30 inch deep swimming ~~pool; and~~

31 (vii) artificial swimming lagoons as defined in G.S. 130A-280.

32 (e) "Special purpose and therapy pools" are pools designed and used for therapeutic treatments
33 or physical training and fitness outside of a licensed medical facility or practice of a
34 licensed physical therapist. They include:

35 (i) float tanks used for float therapy in a salt brine solution;

36 (ii) swim spa training pools which use jetted water for stationary swimming against a
37 water current;

1 (iii) exercise therapy and treadmill pools equipped for water resistance exercise
2 therapy; and

3 (iv) scuba pools designed and used for training swimmers to use self-contained
4 underwater breathing apparatus.

5 ~~(3)~~(4) "Registered Design Professional" means an individual who is registered or licensed to practice
6 engineering as defined by G.S. 89C or architecture as defined by G.S. 83A.

7 ~~(4)~~(5) "Remodeled" means renovated in a manner requiring disruption of the majority of the pool shell or
8 deck, changes in the pool profile, or redesign of the pool hydraulic system.

9 ~~(5)~~(6) "Repair" means returning existing equipment to working order, replastering or repainting of the pool
10 interior, replacement of tiles or coping and similar maintenance activities. This term includes
11 replacement of pool decks where the Department has determined that no changes are needed to
12 underlying pipes or other pool structures.

13 ~~(6)~~(7) "Safety vacuum release system" means a system or device capable of providing vacuum release at
14 a suction outlet caused by a high vacuum occurrence due to suction outlet flow blockage.

15 ~~(7)~~(8) "Splash zone" means the area of an interactive play attraction that sheds water to a surge tank or
16 container to be recirculated.

17 ~~(8)~~(9) "Unblockable drain" means a drain of any size and shape that a human body cannot sufficiently
18 block to create a suction entrapment hazard.

19 (10) "Water feature" means any component within a public swimming pool that pumps, jets, or sprays
20 water above the waterline.

21
22 *History Note: Authority G.S. 130A-280; 130A-282; S.L. 2019-88;*
23 *Eff. May 1, 1991;*
24 *Temporary Amendment Eff. June 1, 1994 for a period of 180 days or until the permanent rule*
25 *becomes effective, whichever is sooner;*
26 *Amended Eff. April, 1, 2013; May 1, 2010; March 1, 2004; April 1, 1999; January 1, 1996; October*
27 *1, 1994.*

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1 15A NCAC 18A .2543 is proposed for amendment under temporary procedures as follows:

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3 **15A NCAC 18A .2543 WATER RECREATION ATTRACTIONS**

4 (a) Water recreation attractions including water slides, wave pools, rapid rides, lazy ~~rivers~~ rivers, artificial swimming
5 lagoons, and other similar features can deviate from the requirements of this Section with respect to pool profile,
6 depth, freeboard, flow dynamics and surface skimming systems. The designing engineer or equipment manufacturer
7 shall provide the Department with information to justify such deviation as necessary for the proper function of the
8 attraction. Water recreation attractions shall meet all other requirements of this Section.

9 (b) Water slide landing pools with a capacity of less than 60,000 gallons shall have a circulation and filtration system
10 capable of turning over the entire pool capacity every two hours. Where automatic chemical controllers are used the
11 turnover time shall be no more than three hours. Landing pool dimensions shall be consistent with the slide
12 manufacturer's recommendation.

13 (c) When waterfalls are incorporated in water recreation attractions, they shall be constructed with no handholds or
14 footholds to a height of four feet to discourage climbing.

15 (d) Interactive play attractions shall be constructed and operated in accordance with the rules of this section and shall
16 comply with the following:

- 17 (1) The recirculation system shall contain a water capacity equal to at least three minutes of maximum
18 flow of all feature pumps and filter circulation pumps combined and shall not be less than 1,000
19 gallons. Where the water capacity exceeds 10,000 gallons, the minimum capacity shall be based on
20 the lesser of three minutes of maximum feature flow or 7.5 gallons per square foot of splash zone
21 watershed drained to the surge container.
- 22 (2) Access shall be provided to the surge water container.
- 23 (3) A filter circulation system shall be provided and shall be separate from the feature pump system
24 except that both systems can draw water from a common drain pipe if the drain and pipe are sized
25 to handle the flow of all pumps without exceeding the flow velocities specified in Rule .2518 of this
26 Section.
- 27 (4) The filter circulation system shall draw water from the surge container through a variable height
28 surface skimmer and a bottom drain located no more than 6 inches from the bottom of the container.
29 Custom skimming systems that do not comply with ANSI/NSF Standard 50 shall be approved where
30 the operational requirements make it necessary to deviate from that standard.
- 31 (5) The filter circulation system shall filter and return the entire water capacity in no more than 30
32 minutes and shall operate 24 hours a day.
- 33 (6) Automatic chemical controllers shall be provided to monitor and adjust the disinfectant residual and
34 pH of the water contained in the system.
- 35 (7) The disinfectant residual in interactive play attractions shall be maintained at a level of at least two
36 parts per million of free chlorine. Chlorine feeders shall be capable of producing 12 parts per million
37 of free chlorine in the filter circulation piping.

- 1 (8) Valves shall be provided to control water flow to the features in accordance with the manufacturers' specifications.
- 2
- 3 (9) Splash zones shall be sloped to drains sized and located to remove all feature water to the surge tank
- 4 without water accumulating on the surface.
- 5 (10) Deck or walkway space is not required outside the splash zone.
- 6 (11) Dressing and sanitary facilities shall be provided.
- 7 (12) Interactive play features shall not be required to have a fence except the wading pool fence
- 8 requirements shall apply to interactive play features located inside a swimming pool enclosure.
- 9 (13) The safety provisions of Rule .2530 of this Section shall not apply except a sign shall be posted
- 10 prohibiting pets and glass containers.
- 11 (14) Interactive play attractions built prior to April 1, 2004, that do not comply with these design and
- 12 construction requirements shall be permitted to operate as built if no water quality or safety
- 13 violations occur.

14 (e) Training pools shall meet the requirements for swimming pools with the following exceptions:

- 15 (1) Training pools shall be equipped with a filter circulation system that filters and returns the entire
- 16 pool capacity in no more than two hours.
- 17 (2) The free chlorine residual in training pools shall be maintained at no less than two parts per million.

18 (f) Artificial swimming lagoons shall meet the requirements for public swimming pools except as specified in this

19 Rule:

- 20 (1) Pool shells shall not be required. Liners shall meet the requirements of Rule .2514 of this Section.
- 21 (2) Underwater components or float lines with openings greater than one-half inch shall not be allowed
- 22 in swimming zones.
- 23 (3) All swimming zone float rope components shall be a color contrasting with the pool liner. The
- 24 location of the float rope may vary from the requirements of Rule .2523(e) of this Section regarding
- 25 breakpoint and slope. A contrasting color band shall not be required on the liner under the rope.
- 26 (4) Each swimming zone and water feature shall meet water quality standards as required in Rule .2535
- 27 of this Section. If the water quality of a swimming zone or water feature does not meet the
- 28 requirements of Rule .2535 of this Section, the operator shall close the swimming zone or water
- 29 feature and post a sign at the entrance of the swimming zone with legible letters of at least four
- 30 inches (10 cm) in height stating "ATTENTION: THE SWIMMING ZONE IS CLOSED.
- 31 SWIMMING IN THIS AREA IS NOT PERMITTED AT THIS TIME". The swimming zone or
- 32 water feature shall remain closed until the water quality in the swimming zone or water feature
- 33 complies with the requirements of Rule .2535 of this Section.
- 34 (5) All non-swimming zones shall be maintained so the bottom of the lagoon is visible in all areas.
- 35 (6) A sign shall be posted at all entrances with legible letters of at least four inches (10 cm) in height
- 36 stating "NOTICE – NO SWIMMING ALLOWED OUTSIDE OF DESIGNATED SWIMMING
- 37 ZONES".

- 1 (7) Signage shall be provided indicating swimming zones.
- 2 (8) Depth markings and no diving markers shall be provided on decks in swimming zones as required
3 in Rule .2523 of this Section. Signs shall be posted at all entrances to swimming zones with legible
4 letters of at least four inches (10cm) in height stating “NO DIVING” and stating the maximum depth
5 of the swimming zone in Arabic numerals and shall include the word “feet” or the symbol “ft” to
6 indicate the unit of measure.
- 7 (9) Decks may vary from the minimum deck area requirements in Rule .2522 of this Section at zero
8 entry areas located within swimming zones. Access to swimming zones shall be provided for
9 emergency vehicles and personnel. No decks shall be required in non-swimming zones.
- 10 (10) Swimming zones shall meet all safety provisions as set out in Rule .2530 of this Section. Where
11 swimming zones are separated by more than 75 feet, each swimming zone shall separately meet all
12 safety provisions. Non-swimming zones are exempt from the requirements in Rule .2530 of this
13 Section.
- 14 (11) A water treatment system that does not meet the requirements of Rules .2518 and .2519 of this
15 Section shall be approved by the Environmental Health Section of the Department’s Division of
16 Public Health when the treatment system performs in a manner equal or superior to the systems
17 described in Rules .2518 and .2519 of this Section in terms of water clarification, disinfection, and
18 removal of debris, and results in a measurable disinfectant level and pH level as required in
19 subparagraph (f)(4) of this Rule.
- 20 (12) The requirements of Rule .2526(e)–(h) of this Section shall not apply. Sanitary facility requirements
21 shall comply with the 2018 North Carolina State Building Code: Plumbing Code, which is
22 incorporated by reference with subsequent changes or amendments and available free of charge at:
23 <https://codes.iccsafe.org/content/NCPC2018>.
- 24 (13) Bacteriological samples (enterococcus) shall be collected by the operator in non-swimming zones
25 and tested weekly. One sample shall be collected for every 250 feet of shoreline, with no more than
26 300 feet and no less than 25 feet between any two sampling locations. The samples shall be collected
27 at least one foot below the surface, in at least three feet of water. The samples shall be analyzed by
28 a laboratory accredited by the National Environmental Laboratory Accreditation Program. The test
29 results shall be maintained as part of the records required in Rule .2535(11) of this Section.
- 30 (14) When the result of any test required by subparagraph (f)(13) of this Rule exceeds the standards in
31 Rule .3402(a) of this Subchapter, the operator shall:
- 32 (A) notify the permitting agency and resample the water within 24 hours of receipt of the result
33 from the laboratory; and
- 34 (B) close all non-swimming zones and post a sign at all non-swimming zone entrances with
35 legible letters of at least four inches (10 cm) in height stating “ATTENTION: ALL NON-
36 SWIMMING ZONES ARE CLOSED. RECREATIONAL ACTIVITIES IN THIS AREA
37 ARE NOT PERMITTED AT THIS TIME”. This sign shall remain posted until resampling

1 determines that bacterial levels do not exceed the standards in Rule .3402(a) of this
2 Subchapter.

3 (15) Non-swimming zones shall not be required to comply with the lighting requirements of Rule .2524
4 of this Section. When night swimming is allowed, the operator shall provide lighting in swimming
5 zones as required for public swimming pools.

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7 *History Note: Authority G.S. 130A-280; 130A-282; S.L. 2019-88;*
8 *Eff. April 1, 1999;*
9 *Amended Eff. March 1, 2004.*

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